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notwithstanding the preference of her husband and daughter that some member of the family who would act without compensation should be named the trustee, had a legal right to name a third party trustee.

[Ed. Note.—For other cases, see Trusts, Cent. Dig. § 200; Dec. Dig. § 155.* 12 Va.-W. Va. Enc. Dig. 328.]

Appeal from Circuit Court, Sussex County.

Suit by Helen N. Inge against S. T. Inge, trustee, S. H. Inge, and another, with cross-bill by defendants S. T. Inge and S. H. Inge. Decree for complainant, and defendants appeal. Affirmed.

W. S. McNeill, of Richmond, and *T. Freeman Epes*, of Blackstone for appellants.

Thos. H. Howerton, of Waverly, and *R. H. Mann*, of Petersburg, for appellee.

BROWN v. FORD et al.

Jan. 11 1917.

[91 S. E. 145.]

1. Trusts (§ 151 (3)*)—Jurisdiction—Lien—Trust Estate.—A court of equity, which had in three suits undertaken the entire control of a trust estate and in a fourth suit had undertaken to partition realty and distribute the personalty, has primary jurisdiction of a claim by a third party for an equitable lien on such estate.

[Ed. Note.—For other cases, see Trusts, Cent. Dig. § 197; Dec. Dig. § 151 (3).* 9 Va.-W. Va. Enc. Dig. 329.]

2. Trusts (§ 147 (2)*)—Equitable Lien—Creation—Express Agreement.—An express executory agreement by a beneficiary to make the whole corpus of an estate security for a debt creates an equitable lien on the beneficiary's interest in that estate.

[Ed. Note.—For other cases, see Trusts, Cent. Dig. § 192; Dec. Dig. § 147 (2).* 9 Va.-W. Va. Enc. Dig. 329.]

3. Trusts (§ 147 (2)*)—Equitable Lien—Express Lien—Contingent Estate.—The fact that interest of a beneficiary who agreed to give a lien on the estate was contingent does not defeat the lien, but it will attach when the beneficiary's interest becomes vested.

[Ed. Note.—For other cases, see Trusts, Cent. Dig. § 192; Dec. Dig. § 147 (2).* 9 Va.-W. Va. Enc. Dig. 329.]

4. Trusts (§ 151 (3)*)—Jurisdiction—Lien—Trust Estate.—Where one share of a trust estate, on the death of the contingent beneficiary before the life tenant, was by a compromise agreement between all

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

parties vested in a claimant charged with the payment of the debts of the contingent holder, the court in the consent decree reserving the right to determine such debts, that court had jurisdiction as against that claimant over a claim for an equitable lien against the original estate.

[Ed. Note.—For other cases, see Trusts, Cent. Dig. § 197; Dec. Dig. § 151 (3).* 13 Va.-W. Va. Enc. Dig. 363.]

5. Equity (§ 39 (2)*)—Jurisdiction—Incidental Relief.—A court of equity, which has acquired jurisdiction to enforce a claim for an equitable lien, can retain such jurisdiction to give legal relief, such as a personal decree for the payment of money as damages for breach of contract.

[Ed. Note.—For other cases, see Equity, Cent. Dig. §§ 104-109. 114; Dec. Dig. § 39 (2).* 1 Va.-W. Va. Enc. Dig. 162.]

6. Limitation of Action (§ 46 (6)*)—Accrual of Right of Action—Breach of Contract.—The personal liability on an agreement between a contingent beneficiary of a trust estate to have a claim made a lien on the corpus of the estate does not arise until the death of the life tenant, since not until then could the beneficiaries have given such lien by their personal action without the court's approval, and the statute of limitations does not begin to run against the action for the breach of such agreement until the death of the life tenant.

[Ed. Note.—For other cases, see Limitation of Actions, Cent. Dig. § 245; Dec. Dig. § 46 (6)* 9 Va.-W. Va. Enc. Dig. 393.]

7. Trusts (§ 151 (3)*)—Claim against Estate—Contingent Promise.—The claimant of an equitable lien created by the express promise of the contingent beneficiaries to make the claim a lien on the estate is not barred by laches for failing to prosecute his claim before the death of the life tenant five years after the agreement, where the delay was caused by the fault of the beneficiaries in not presenting the claim to the court as they agreed, nor is the legal claim against the beneficiaries for breach of such agreement barred.

[Ed. Note.—For other cases, see Trusts, Cent. Dig. § 197; Dec. Dig. § 151 (3).* 9 Va.-W. Va. Enc. Dig. 393.]

8. Trusts (§ 147 (2)*)—Joint Contract—Beneficiaries of Trust Estate.—An express written agreement of three of the four beneficiaries of a trust estate to have a claim made a lien against the estate is a joint contract.

[Ed. Note.—For other cases, see Trusts, Cent. Dig. § 192; Dec. Dig. § 147 (2).* 13 Va.-W. Va. Enc. Dig. 360.]

Appeal from Chancery Court of Richmond.

Claim by J. Henry Brown against Stewart H. Ford and others, filed in four separate chancery suits relating to the estate of A.

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

J. Ford. From a decree denying relief prayed for, for want of equity, claimant appeals. Reversed and remanded.

Scott & Buchanan, of Richmond, for appellant:

A. B. Dickinson, Abner C. Goode, and W. P. De Saussure, all of Richmond, for appellees.

JOHNSON *v.* BUTTON, Ins. Com'r, et al.

Jan. 11, 1917.

[91 S. E. 151.]

1. Insurance (§ 84 (2)*)—Compensation of Agents—Insolvency of Company.—An insurance agent cannot be required to return part of his commissions, where the insurer becomes insolvent, requiring return of part of the premiums.

[Ed. Note.—For other cases, see Insurance, Cent. Dig. § 111; Dec. Dig. § 84 (2).* 7 Va.-W. Va. Enc. Dig. 761.]

2. Insurance (§ 63*)—Return of Premium—Insolvency of Company.—Insolvency of insurer entitles policy holders to return premiums on the "pro rata," instead of the "short rate," basis.

[Ed. Note.—For other cases, see Insurance, Cent. Dig. §§ 86-88; Dec. Dig. § 63.* 7 Va.-W. Va. Enc. Dig. 793.]

3. Insurance (§ 64*)—Foreign Companies—Ancillary Proceedings on Insolvency.—It is proper, in ancillary proceedings in respect to an insolvent foreign insurance company, to decree that premiums collected by the receiver from subagents be turned over to the general agent, instead of directing settlement therein between such agent and the subagents and the company, or that it be held to await a settlement between all parties; the general agent being liable to the company for premiums, and being under sufficient bond.

[Ed. Note.—For other cases, see Insurance, Cent. Dig. § 89; Dec. Dig. § 64.* 7 Va.-W. Va. Enc. Dig. 796.]

4. Insurance (§ 64*)—Accounting by Agent—Insolvent Foreign Company.—The proper place for a settlement by the general agent for two states of an insolvent insurance company of another state is in the suit in that state for general liquidation of the company's business, and not in ancillary proceeding in one of the other two states.

[Ed. Note.—For other cases, see Insurance, Cent. Dig. § 89; Dec. Dig. § 64.* 7 Va.-W. Va. Enc. Dig. 796.]

5. Insurance (§ 63*).—The agent of an insurance company to whom, when it became insolvent, policy holders assigned their policies, has

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